IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.1.2007

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THE HON'BLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.5362 OF 2004

S.Karthikeyan .. Petitioner

vs.

Teacher's Recruitment Board,
E.V.K.Sampath Maligai,
4th Floor, D.P.I. Compound,
College Road,
Chennai - 600 006 .. Respondent

Writ Petition filed under Article 226 of the Constitution of India as stated therein.

For petitioner : Mr.R.Kaaruppan

For respondent : Mr.M.Sekar
Special Government Pleader
Assisted by C.Thirumaran
Government Advocate

O R D E R

The writ petition has been filed for the issuance of a Writ of Mandamus to direct the respondent to appoint the petitioner as Junior Graduate Assistant (Maths subject) and for such other consequential reliefs.

The brief facts of the case, as stated by the petitioner, are as follows:

2. The petitioner comes from a socially oppressed family with a rural background. He belongs to the backward community. After obtaining a B.Sc. degree in the year 1983, he had also obtained a B.Ed., degree in the year 1989. Later, by sheer hard work, he had also acquired the educational qualifications of M.Sc., M.Ed. He had duly registered himself in the concerned Employment Exchange. Thereafter, he has been working as a Teacher in a private School. Inspite of having registered himself in the employment exchange, the petitioner did not get an opportunity of employment. In the year 2000, the

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Teachers' Recruitment Board was constituted. A scheme was devised to give weightage to the seniority, based on the waiting period, subsequent to registration in the Employment Exchange.

3. The petitioner had appeared thrice in the examination conducted by the respondent Board. However, the petitioner was not selected for appointment. In the last examination, the petitioner had obtained 93 marks. When the weightage marks for the waiting period and teaching experience were added, he had obtained 100 marks, as per the results obtained from the internet. It was seen that the candidates, who had secured 97 marks in the Backward General Category, were called for confirmation of selection, after verification of their credentials. Even though the petitioner had obtained 100 marks, he was not selected. According to the petitioner, the "Weightage Marks" to be added to the written examination marks for preparing the merit-cum communal-roster, would be as follows:

	Year	Marks
Employment Exchange period of waiting	1 to 3	1 mark
	3 to 5	2 marks
	5 to 10	3 marks
	10 and above	4 marks
Experience of teaching from 6th to 10th in any recognised school	1-2	1 mark
	2-5	2 marks
	5 and above	3 marks

4. The petitioner had more than 10 years of waiting period, as he had registered in the Employment Exchange, on 9.1.1984. The petitioner's teaching experience had started, from 14.9.1992 and had lasted for more than 9 years. Counting four weightage marks for the waiting period and three weightage marks for his teaching experience a total of 7 marks should have been added to the 93 marks obtained by the petitioner in the written examination. Thus, he was eligible to get a total of 100 marks. In such a case, the petitioner ought to have been selected to the post of Junior Graduate Assistant/Language Pandit, in the year 2003-2004, in the recruitment conducted by the respondent Board.

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5. The petitioner has preferred the present writ petition stating, inter alia, that the selection process itself is arbitrary and in violation of Article 14 of the Constitution of India.

6. The syllabus, based on which the examinations were conducted and the granting of weightage marks were improper and glaringly incorrect. The granting of age relaxation to the Forward Communities is violative of Article 15 and 16 of the Constitution of India. Inspite of having more than the cut-off marks, the petitioner was not selected, due to the inherent irregularities in the process of selection and due to the serious mistakes committed by the authorities concerned in implementing the established procedures of selection. Therefore, the recruitment process followed by the authorities concerned is arbitrary, illegal and violative of the principles embodied in the Constitution of India.

7. In the counter affidavit filed on behalf of the respondent, it has been stated that the Teachers' Recruitment Board had been constituted in the year 1987, for the purpose of recruitment of teachers for regular appointment in the Tamil Nadu Higher Secondary Educational Services and Tamil Nadu Educational Subordinate Services. The respondent Board was reconstituted in the year 1990, for recruitment to teaching posts in Government Arts Colleges, Law Colleges, Engineering Colleges and Polytechnics. Upto the year 2000-2001, the Teachers' Recruitment Board had selected the candidates by conducting interview for candidates sponsored by the Employment Exchange on the basis of seniority. From the year 2001-2002, the written competitive examinations were introduced, as per G.O.Ms.No.210, School Education Department, dated 7.12.2001, and teachers are selected by direct recruitment, based on their performance in the written examination. The final selections are made, after verification of all certificates, based on merit and communal rotations, subject to the Rules of reservation in force, including the rules of procedures stipulated in G.O.Ms.No.1223, Education, dated 12.7.1988, as amended from time to time.

8. In the year 2001, the Government of Tamil Nadu had taken a policy decision to introduce the written competitive tests for the recruitment of Graduate and Post Graduate Teachers for Government Schools. The valuation of Optical Mark Reader (OMR) answer papers is entirely computerised with no room for errors. For the year 2003-2004, the Board, in accordance with the orders issued in G.O.Ms.No.100, School Education, (Budget) Department, dated 27.6.2003, had notified the vacancies in Tamil and English dailies inviting the applications from the eligible candidates, who had registered their names in the Employment Exchange, for the posts of Junior Graduate Assistants/Tamil Pandits. The vacancies notified were in accordance with communal rotation, with the statutory reservations for women and the physically handicapped, including the blind. The written examination comprised of

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a single paper of three hours duration with 150 marks. The question paper was of objective type with multiple choice questions. The marks allotted to the main subjects was 110. 30 marks were allotted for Education methodology and 10 marks for General Knowledge. The selection is based on the written examination only. After verification of all the certificates, the provisionally selected candidates are awarded weightage marks for (a) the period of wait after registration in the Employment Exchange (maximum four marks) and (b) Teaching experience in the relevant classes (maximum 3 marks). The weightage marks help to determine the relative seniority among the selected candidates.

9. It had been further stated that the written examination was conducted, on 11.1.2004. The results of the written examination, namely, the marks secured by all the candidates and the provisional list of candidates short-listed for Certificate verification, based on merit-cum-communal rotation, were published, on 5.2.2004. In the subject Mathematics, the minimum cut-off marks in the written examination for the Backward Class (General) category, to which the writ petitioner belongs, was 97 out of 150. All Backward Class (General) candidates, who secured 97 marks and above, were called for Certificate verification. The petitioner, having secured 93 marks, was not called.

10. The contention of the petitioner that he had secured 100 marks is not correct. All the selected candidates were called only on the basis of written examination marks. In fact, 202 candidates, who had secured higher marks than the petitioner in the written examination and belonging to the Backward Class (General) category, have not been selected. Apart from the above said 202 candidates, there are 88 candidates, who have secured 93 marks, on par with the petitioner. Certain details have been given with regard to the candidates, with the marks obtained by them in the written examination, as stated below.

Marks	No. of unselected candidates
96	36
95	81
94	85
93	88
Total	290

11. It has also been stated that the weightage marks were added only for the selected candidates, after Certificate verification and the total marks were taken to prepare the final merit-cum-communal-roster. The said procedure had been followed for the past three years

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without any complaint. The Certificate verification marks help to determine inter-se seniority among the selected candidates. The weightage marks cannot be added prior to the Certificate verification, as claimed by the petitioner.

12. It has been further stated that the syllabus for the written competitive examination of the Teachers' Recruitment Board has been designed, keeping in view the academic requirements of Teachers for teaching classes VI to X as per the new and improved syllabi introduced in Schools, as approved and gazetted by the Government. The Teachers' Recruitment Board syllabus had been sent to all the candidates well in advance. Therefore, the contentions of the petitioner, with regard to the disadvantage faced by him relating to the syllabus, cannot be correct.

13. It has been further submitted that the written examination carried a total of 150 marks and the maximum weightage marks of the candidates was only 7. This was based on the policy decision of the Government to select Teachers, based on written competitive examination so as to give more importance to merit relating to the knowledge of the subject and Educational techniques. The weightage marks for Teaching experience and Employment Exchange seniority are added, after the verification of the relevant documents of the provisionally selected candidates in order to give older and more experienced persons some advantage in the final ranking, as the final merit-cum-communal roster is prepared after adding the verified weightage marks to the written examination marks.

14. A batch of cases filed in the year 2001, before the Tamil Nadu Administrative Tribunal, Chennai, were dismissed, on 7.1.2003, wherein, the Tribunal had stated that the policy decision of the State Government, relating to the mode of selection adopted by the recruitment Board in the matter of selection of the teachers in the Government Schools, cannot be questioned. The Government of Tamil Nadu had taken a policy decision in the year 2001 to remove the maximum age limit at entry level for all the candidates who apply for teaching posts, vide G.O.Ms.No.174, School Education (M2) Department, dated 12.10.2001. Even though the age relaxation has been granted to all the Communities, the Teachers' Recruitment Board strictly follows the policy of the Government of having 69% reservation in accordance with G.O.Ms.No.85, Personnel and Administrative Reforms Department, dated 6.5.2000, and G.O.Ms.No.105 (Personnel and Administrative Reforms) Department, dated 20.6.2000. Backward Classes are given 30% reservation, Most Backward Classes 20%, Schedule Castes 18% and Schedule Tribes 1%. In addition, all the candidates, who claim reservation can also compete for the open competition seats comprising 31%. Therefore, there is no violation of Article 15 and 16 of the Constitution of India.

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15. It has been further stated, in the counter-affidavit filed on behalf of the respondent, that the averments of the petitioner that he should have been selected and appointed as a Teacher, as he had secured more than the cut-off marks in the written examination, cannot be sustained. The petitioner had secured only 93 marks in the written examination, as against the minimum cut-off marks of 97 for Backward Class (General) category. The candidates who had secured the minimum cut-off marks fixed for the written examination were alone called for the Certificate verification. The weightage marks are added only after Certificate verification. They are added to the written examination marks for preparing the final merit-cum-communal roster. As per the decision of the respondent Recruitment Board, the weightage marks served the purpose of deciding the relative seniority of the candidates, who were successful in their written examination. The system of selection through the written competitive examination is merit based and devised with the aim of recruiting the efficient Teachers capable of providing quality Education to children in the Middle, High and Higher Secondary Schools in the State of Tamil Nadu.

16. In the additional counter affidavit filed on behalf of the respondent, the cut off marks in the written examination (Department wise), for each communal category, has been furnished as follows:

Department of School Education:

	GT	GW	BC	BW	MG	MW	SG	SW	STG	STW
Max.	134	112	112	104	111	100	110	82	87	-
Min.	112	106	104	100	100	92	82	72	43	-

Department of Elementary Education:

	GT	GW	BC	BW	MG	MW	SG	SW	STG	STW
Max.	110	101	101	98	100	92	82	70	-	-
Min.	101	98	98	97	95	90	72	66	-	-

Department of Adi-Dravida and Tribal Welfare:

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	GT	GW	BC	BW	MG	MW	SG	SW	STG	STW
	GT	GW	BC	BW	MG	MW	SG	SW	STG	STW
Max.	100	98	98	96	95	90	72	66	-	-
Min.	98	96	97	96	94	89	71	66	-	-

Department of Most Backward and Denotified Communities:

	GT	GW	BC	BW	MG	MW	SG	SW	STG	STW
Max.	98	96	97	96	94	89	71	66	-	-
Min.	97	96	97	96	94	89	71	66	-	-

17. It has also been stated that the list, enclosed in the typed set of papers filed by the petitioner, is pertaining to the list of short listed candidates, based on the written examinations called for Certificate verification and it was not the final list of candidates selected for appointment. The final selection of the candidates was based on the aggregate of marks scored in the written examination (maximum 150 marks) and the weightage marks awarded during the Certificate verification (maximum 7 marks). The weightage marks are added only for the short listed candidates called for Certificate verification. The final results, after Certificate verification, was published, on 18.5.2004.

18. The writ petitioner had scored 93/150 marks in the written examination, which is well below the cut-off marks of 97/150 fixed for Backward Class (General) category. As per the orders of this Court, the petitioner was called for Certificate verification, on 15.4.2004, and he was awarded four marks for Employment Exchange seniority. The Teaching Experience Certificate submitted by the petitioner had not been countersigned by the inspecting officer and hence, the same could not be accepted. In the prospectus it was clearly stipulated that Teaching Experience Certificate should be countersigned by the inspecting Officer concerned. The said procedure was uniformly applied to all the candidates appearing for Certificate verification. Therefore, after adding four weightage marks to the written examination marks, the petitioner had obtained only 97 marks and not 100 marks as claimed by him in his affidavit. The last candidate called for Certificate verification against BG turn had secured 97 marks in the written examination. In fact, 35 BC candidates with 97 marks and above in the written examination could not be selected ,even after adding weightage marks. The cut off marks for final selection

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under the BG turn after adding weightage marks was 100. Therefore, the petitioner had not come within the zone of consideration for selection as Junior Graduate Assistants.

19. In the reply affidavit filed by the petitioner, it has been stated that while merit-cum-seniority alone should be considered, the concept of introducing written examination for the purpose of selection is untenable, baseless and arbitrary. The entire process of selection is without justification and therefore, the Government Order providing for written examination ought to be quashed. The marks granted to the petitioner, as weightage marks, was very low and only illusory and the weightage marks ought to have been added to the marks secured in the written examination before preparing the merit-cum-communal roster, as provided in the prospectus and not as done by the respondent Recruitment Board. The age relaxation for all the candidates is wholly arbitrary and violative of Article 14 and 16 of the Constitution of India.

20. The learned counsel appearing on behalf of the petitioner has vehemently argued that the petitioner ought to have been selected by the respondent Recruitment Board, as he had secured a total of 100 marks, with 93 marks for the written examination and 7 marks as weightage marks. However, from the records placed before this Court, it is seen that the petitioner had obtained only 93 marks in the written examination and only 4 marks as weightage marks. He had a total of 97 marks out of the maximum possible marks of 157 i.e., a maximum of 150 marks for written examination and 7 marks as weightage marks. According to the merit list prepared by the respondent Recruitment Board, the petitioner had not come within the zone of consideration for being selected to the post of Junior Graduate Assistant.

21. Eventhough the petitioner had categorically submitted that the process of selection was arbitrary and violative of the principles enshrined in the provisions of the Constitution of India, he has not sought to challenge the Government Orders and the rules prescribing such a process of selection. Further, having participated in the process of selection, it may not be open to the petitioner to challenge the same at this stage.

22. The original records had been called for and examined by this Court. No apparent discrepancies or irregularities are seen in the process of selection followed by the respondent Recruitment Board or in the preparation of the final merit-cum-communal roster, prepared after adding the verified weightage marks to the written examination marks. Unless the petitioner could clearly point out such irregularities or discrepancies in the selection process, requiring the interference by this Court, a general prayer for a writ of mandamus, as sought for by the petitioner, cannot be granted.

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23. Therefore, in the considered view of this Court, there is nothing irregular or illegal in the process of selection followed by the respondent Recruitment Board or while adding the weightage marks to the written examination marks obtained by the petitioner. The Certificates of the petitioner, for claiming weightage marks, had been verified, on 15.4.2004, as per the orders of this Court, dated 8.4.2004. It is not open to this Court to interfere with the policy decision of the Government prescribing a particular process of selection for posts in public service, unless such decision prescribing the procedures or process is violative of the provisions of the Constitution of India, contrary to public policy or the laws in force, principles of natural justice or the decisions of courts of law. However, in the present case, the petitioner is not in a position to show that the process followed by the respondent Recruitment Board is vitiated, due to any of the factors, as stated above.

24. In such view of the matter, this Court finds no reason or cause to grant a writ of madamus or any other order, as prayed for by the petitioner. Hence, the writ petition stands dismissed. No costs. Consequently, connected W.P.M.P.No.197 of 2007 is closed.

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Sd/
Asst. Registrar

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Sub Asst.Registrar

To

Teacher's Recruitment Board,
E.V.K.Sampath Maligai,
4th Floor, D.P.I. Compound,
College Road,
Chennai - 600 006

1 CC TO THE G.P, SR NO 5563

1 CC TO MR.R. KARUPPAN, ADVOCATE SR NO 5313

W.P.No.No.5362 OF 2004

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